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EXAMINER

ELVE, MARIA ALEXANDRA

ART UNIT PAPER NUMBER

1725

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/803,405

Applicant(s)

SCHMIDT ET AL.

Examiner

M. Alexandra Elve

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1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/12/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 8, 10-11, 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Rao et al. (US Pat. 5,948,360).

Rao et al. discloses an autosampler that has vial storage, a sampling station and analysis area. Samples are held in a vial holder (124) (vial cup); additionally movement may be obtained by a belt (176) connected to a motor. The vial holder is loaded at its lowest level and the elevator raises the vial and holder for needle sampling. The inner needle may be washed with a fluid. Sampling module is further equipped with a magnetic sample stirring mechanism. A stir motor turns a primary magnet (150) and a bar magnet (152) is placed in the vial prior to loading the vial. The bar magnet spins and hence mixes the contents of the vial. A variable speed reversible arm motor is utilized and is connected to a belt (176). Additionally, an actuator is used in the assembly. A thermal block is mounted to the vial storage area. (abstract, figures, col. 2, lines 7-10, col. 6, lines 5-65, col. 7, lines 2-67, col. 8, lines 1-60, claim 1)

Claims 1-4, 8, 10-11, 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Buckle et al. (US Pat. 3,489,521).

Buckle et al. discloses an automatic analytical laboratory. The assembly has a reaction rotor, a stirrer, a heater and rotor feed for the movement of sample vials, which may comprise of a belt system. The driving actuator for each turntable may be either a stepped electrical motor or a solenoid ratchet drive. A pin device raises and lowers the vials. (abstract, figures, col. 1, lines 20-65, col. 2, lines 24-72, col. 3, lines 68-70, col. 5, lines 10-20, col. 6, lines 64-66)

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Blumenfeld et al. (US Pat. 5,473,437).

Blumenfeld et al. discloses an apparatus for detecting and analyzing vials samples. A rack holds vials and is connected to a moving assembly. The drive mechanism provides agitation for the sample vials. (abstract, figures, col. 1, lines 65-67, col. 2, lines 1-12)

Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Miki et al. (US Pat. 5,472,669).

Miki et al. discloses an apparatus for analysis of sugar. Vials are moved to various stations for testing. A centrifugal stirrer apparatus rotates sample vials. (abstract, figures, col. 4, lines 15-20, col. 5, lines 43-65)

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buckle et al, as stated in an above paragraph and further in view of Rao et al.

Buckle et al. discloses an automatic analytical laboratory, but does not teach the cleaning of a needle or pipette.

Rao et al. discloses an autosampler in which the inner needle may be washed with a fluid.

It would have been obvious to one of ordinary skill in the art at the time of the invention to clean, flush or purge the sampling needle, as taught by Rao et al., in the Buckle et al. system because it reduces carryover and hence minimizes contamination of samples and yields more accurate analysis results.

Claims 5, 7 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al., as stated in an above paragraph and further in view of Worth et al. (US Pat. 3,384,353).

Rao et al. discloses an autosampler that has vial storage, a sampling station and analysis area. Sampling module is further equipped with a magnetic sample stirring mechanism. However, Rao does not teach a pair of magnets, or a fin to generate airflow.

Worth et al. discloses a magnetic stirrer, in which the driving motor is connected to two magnetic structures (12 & 14). Additionally, the drive shaft is connected to a fan (31). (abstract, figures, col. 2, lines 61-72, col. 3, lines 1-35)

It would have been obvious to one of ordinary skill in the art at the time of the invention to note the use of a double magnetic assembly and a fan, as taught by Worth et al., in the Rao et al. system because these are merely parts of a magnetic stirring mechanism.

Claims 5, 7 & 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckle et al., as stated in an above paragraph and further in view of Worth et al.

Buckle et al. discloses an automatic analytical laboratory. The assembly has a reaction rotor, a stirrer, a heater and rotor feed for the movement of sample vials, which may comprise of a belt system. However, Buckle does not teach a pair of magnets, or a fin to generate airflow.

Worth et al. discloses a magnetic stirrer, in which the driving motor is connected to two magnetic structures (12 & 14). Additionally, the drive shaft is connected to a fan (31). (abstract, figures, col. 2, lines 61-72, col. 3, lines 1-35)

It would have been obvious to one of ordinary skill in the art at the time of the invention to note the use of a double magnetic assembly and a fan, as taught by Worth et al., in the Buckle et al. system because these are merely parts of a magnetic stirring mechanism.

Claims 6 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rao et al., as stated in an above paragraph and further in view of Cook (2,518,758)

Rao et al. discloses an autosampler that has vial storage, a sampling station and analysis area. Sampling module is further equipped with a magnetic sample stirring mechanism. However, Rao does not teach a single or rectangular magnet.

Cook discloses a magnetic stirring apparatus which contains a bar magnet (6) (abstract, col. 2, lines 52-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to note the use of a single magnetic assembly of rectangular shape, as taught by Cook, in the Rao et al. system because these are merely parts of a magnetic stirring mechanism.

Claims 6 & 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Buckle et al., as stated in an above paragraph and further in view of Cook.

Buckle et al. discloses an automatic analytical laboratory. The assembly has a reaction rotor, a stirrer, a heater and rotor feed for the movement of sample vials, which

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may comprise of a belt system. However, Buckle does not teach a single or rectangular magnet.

Cook discloses a magnetic stirring apparatus which contains a bar magnet (6) (abstract, col. 2, lines 52-55).

It would have been obvious to one of ordinary skill in the art at the time of the invention to note the use of a single magnetic assembly of rectangular shape, as taught by Cook, in the Buckle et al. system because these are merely parts of a magnetic stirring mechanism.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See US PTO-892.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Alexandra Elve whose telephone number is 571-272-1173. The examiner can normally be reached on 6:30-3:00 Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Dunn can be reached on 571-272-1171. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 4, 2004.



M. ALEXANDRA ELVE  
PRIMARY EXAMINER